

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 26, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Bill Eggers (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HJ 39 - 3-22-01**
Executive Action: **HJ 39 - DPAA**
SB 467 - Table

SB 382 - Table

SB 487 - Table

HEARING ON HJ 39

Sponsor: Rep. Jim Shockley, HD 61, Northern Ravalli County said he has cut this Joint Resolution down to say "this will be in competition" and is much smaller than HB 128. It will be in competition with the other Bills that the Interim Committees will be considering. The criminal statutes change a lot from session to session. They really haven't compared the penalties. The Law, Justice and Indian Affairs Interim Committee thought the penalties should be rationalized. The statutes and the penalties that go with the statutes, will be studied.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: Rep. Hurdle asked Rep. Shockley if he was familiar with the interim study that was done on sentencing guidelines a couple of interims ago and how does this Bill fit in? Rep. Shockley said it was discussed during the Committee and these guidelines came up years ago as they tried to rationalize the sentencing. Over the years the penalties have gone awry from this guideline. Rep. Hurdle asked if adoption of this study would be a trend away from discretionary sentencing? Rep. Shockley said he didn't know but is personally not for mandatory minimum sentences because he believes the discretion is up to the judge.

Reps. Holden, Gutsche, Adams, Mangan, Peterson, to Rep. Shockley.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 13.7}

Closing by Sponsor: Rep. Shockley closed the Hearing on HJ39.

EXECUTIVE ACTION ON HJ 39

Motion: REP. MANGAN moved that HJ 39 DO PASS. #1

Discussion: Reps. Younkin, Peterson, Holden, Mangan, Noennig, Shockley, Mr. MacMaster.

Motion/Vote: REP. SHOCKLEY moved that HJ 39 BE AMENDED Conceptually to add DUI, Page 2, line 12. #2. Motion carried unanimously. 19-0

Motion/Vote: REP. HURDLE moved that HJ 39 BE AMENDED, Page 2, line 18, part 7. #3 Motion carried unanimously 19-0

{Tape : 1; Side : A; Approx. Time Counter : 13.7 - 30.1}

Motion/Vote: REP. SHOCKLEY moved that HJ 39 DO PASS AS AMENDED. #4 Motion carried 18-1 with Rep. Newman voting no.

EXECUTIVE ACTION ON SB 467

Motion: REP. ADAMS moved that SB 467 BE CONCURRED IN. #5

Motion: REP. LASZLOFFY moved that SB 467 BE AMENDED. #6
EXHIBIT (juh68a01)

Discussion: Reps. Laszloffy, Shockley, Gallus.

Vote: Motion #6 failed 6-13 with Reps. Clark, Adams, Eggers, Gallus, Gutsche, Harris, Holden, Hurdle, Mangan, Newman, Noennig, Peterson and Rice voting no.

Motion: REP. NOENNIG moved that SB 467 BE AMENDED. #7
EXHIBIT (juh68a02)

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 9.3}

Discussion: Reps. Noennig, Mr. MacMaster explained the amendment. Newman, Clark.

Vote: Noennig amendment #7 carried 18-1 with Rep. Hurdle voting no.

Motion: REP. NOENNIG moved that SB 467 BE CONCURRED IN AS AMENDED. #8

Motion: REP. NOENNIG moved that SB 467 BE AMENDED. #9
EXHIBIT (juh68a03)

Discussion: Rep. Noennig and Mr. MacMaster explained the amendments.

Vote: Noennig amendment #9 carried unanimously. 19-0

Motion: REP. NEWMAN moved that SB 467 BE CONCURRED IN AS AMENDED. #10

Discussion: Rep. Newman, Laszloffy, Peterson, Gallus.

Motion: REP. GALLUS moved that SB 467 BE TABLED. #11

{Tape : 1; Side : B; Approx. Time Counter : 9.3 - 29.2}

Discussion: Reps. Clark, Mangan, Rice, Younkin, Laszloffy, Shockley.

Vote: Motion #11 failed 9-11 with Reps. Shockley, Laszloffy, Adams, Clancy, Curtiss, Holden, Noennig, Rice, Thomas, Wolery and Younkin voting no.

Discussion: Reps. Noennig, Harris, Peterson, Holden, Mangan, Newman, Shockley, Gallus.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 29.4}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 1.8}

Motion/Vote: REP. NOENNIG moved that SB 467 BE CONCURRED IN AS AMENDED. #12 Motion failed 9-11 with Reps. Clark, Clancy, Eggers, Gallus, Gutsche, Harris, Hurdle, Mangan, Newman, Peterson and Wolery voting no.

Motion/Vote: REP. NEWMAN moved that SB 467 BE TABLED. #13 Vote reversed 11-9 with Reps. Shockley, Laszloffy, Adams, Curtiss, Holden, Noennig, Rice, Thomas and Younkin voting no.

EXECUTIVE ACTION ON SB 382

Motion: REP. ADAMS moved that SB 382 BE CONCURRED IN. #14

Discussion: Reps. Newman, Noennig, Curtiss, Gallus, Mr. MacMaster.

Motion: REP. NOENNIG moved that SB 382 BE AMENDED. #15

Motion/Vote: REP. NOENNIG moved a substitute motion that SB 382 BE AMENDED. #16 Motion carried 18-1 with Rep. Gallus voting no.

Motion: REP. ADAMS moved that SB 382 BE CONCURRED IN AS AMENDED. #17

Discussion: Reps. Laszloffy, Hurdle.

Motion/Vote: REP. LASZLOFFY moved that SB 382 BE TABLED. #18 Motion carried 15-5 with Reps. Noennig, Peterson, Thomas, Wolery, Younkin.

EXECUTIVE ACTION ON SB 487

Motion: REP. ADAMS moved that SB 487 BE CONCURRED IN. #19

Discussion: Reps. Hurdle, Noennig, Rice, Adams, Holden, Shockley, Peterson, Clancy.

{Tape : 2; Side : B; Approx. Time Counter : 1.8 - 29.3}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 17.7}

Motion/Vote: REP. SHOCKLEY moved that SB 487 BE TABLED. #20
Motion carried 12-8 with Reps. Clark, Curtiss, Eggers, Gallus, Gutsche, Harris, Hurdle and Mangan voting no.

Motion/Vote: REP. NEWMAN moved that SB 111 BE TAKEN OFF THE
TABLE. #21 Motion carried 11-7 with Reps. Shockley, Clark, Curtiss, Gutsche, Hurdle, Mangan and Rice voting no.

{Tape : 3; Side : A; Approx. Time Counter : 17.7 - 23.6}

ADJOURNMENT

Adjournment: 10:40 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh68aad)